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3617

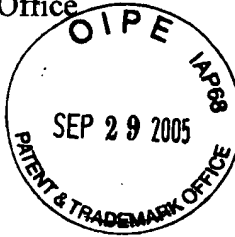
United States Patent and Trademark Office

Attention: Office of Petitions

Assistant Commissioner for Patents

PO Box 1450

Alexandria, VA 22 313



Date: September 19, 2005

Subject: Petition to Withdraw Holding of Abandonment

First named inventor: Jan H. Zicha

Application No.: 10/050,937

Group Art Unit: 3617

Filed: 01/22/2002

Examiner: Frantz Jules

Title: Internally Resilient Tie for Railway Track

Gentlemen,

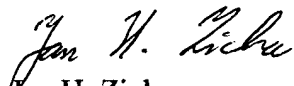
The above-identified application became abandoned due to the alleged failure to timely reply to the Office Letter mailed on November 3, 2004. The Examiner in his Notice of Abandonment dated August 12, 2005 states that the reply was received on April 11, 2005, after the expiration date of the reply period on February 3, 2005.

The Examiner is apparently unaware that the correspondence received on April 11, 2005 is not a reply to the PTO Office Letter mailed on November 3, 2005. It is a reply to his own Advisory Action dated January 26, 2005 that includes comments on the submittal dated December 30, 2004. The submittal dated December 30, 2004 is the reply to the said Office Letter mailed on November 30, 2004.

No new matter is included in any of the submittals.

Since the Office Letter dated November 03, 2005 was timely answered by the submittal dated December 30, 2004, the holding of abandonment due to the failure to respond to an office action should be withdrawn.

Very Respectfully,


Jan H. Zicha

Attachments: Amendment A submitted to USPTO on December 30, 2004

Advisory Action dated 01/26/2005

Notice of Abandonment dated 08/12 /2005

Applicant's Address: 8629 Leslie Ave, Lanham, MD 20706

Tel. (301) 3225233



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/050,937	01/22/2002	Jan Herman Zicha		3863

7590 01/26/2005
JAN H. ZICHA
8629 LESLIE AVENUE
LANHAM, MD 20706



EXAMINER

JULES, FRANTZ F

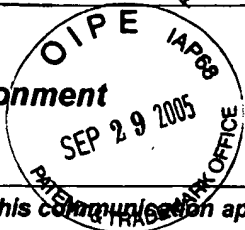
ART UNIT PAPER NUMBER

3617

DATE MAILED: 01/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Notice of Abandonment



Application No.

10/050,937

Examiner

Frantz F. Jules

Applicant(s)

ZICHA, JAN. HERMAN

Art Unit

3617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

This application is abandoned in view of:

1. ☒ Applicant's failure to timely file a proper reply to the Office letter mailed on 03 November 2004.
 - (a) ☒ A reply was received on 11 April 2005 (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply (including a total extension of time of 0 month(s)) which expired on 03 February 2005.
 - (b) ☐ A proposed reply was received on _____, but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection. (A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
 - (c) ☐ A reply was received on _____ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box 7 below).
 - (d) ☐ No reply has been received.
2. ☐ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
 - (a) ☐ The issue fee and publication fee, if applicable, was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).
 - (b) ☐ The submitted fee of \$_____ is insufficient. A balance of \$_____ is due.
The issue fee required by 37 CFR 1.18 is \$_____. The publication fee, if required by 37 CFR 1.18(d), is \$_____.
 - (c) ☐ The issue fee and publication fee, if applicable, has not been received.
3. ☐ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
 - (a) ☐ Proposed corrected drawings were received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply.
 - (b) ☐ No corrected drawings have been received.
4. ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.
5. ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.
6. ☐ The decision by the Board of Patent Appeals and Interference rendered on _____ and because the period for seeking court review of the decision has expired and there are no allowed claims.
7. ☒ The reason(s) below:

The Amendment dated 04/11/2005 is late from the three month time period set as of the Final Rejection dated 11/03/2004. The amendment is also non-compliant to current standard of the claims for the following reason: a complete listing of the claims (1-23) including their status identifiers is missing.

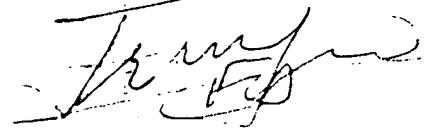
FRANTZ F. JULES
PRIMARY EXAMINER

Frantz F. Jules
Primary Examiner
Art Unit 3617

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.

Continuation of 2. NOTE: The amendment of claim 29 to create an independent claim rather than the previously submitted dependent claim claim 29 in the amendment dated 07/28/2004 constitute issue not previously considered which require further consideration and/or search.

FRANTZ R. JULES
PRIMARY EXAMINER

A handwritten signature in black ink, appearing to read 'Frantz R. Jules', written over a horizontal line.



In the United States Patent and Trademark Office

Serial Number: _____
Appn. Filed: _____
Applicant(s): _____
Appn. Title: _____
Examiner/GAU: _____

Mailed: _____

At: _____

Request for Approval of Proposed Drawing Amendment

Commissioner for Patents

Washington, District of Columbia 20231

Sir:

Applicant(s) respectfully request(s) permission to amend the drawing(s) of the above application after allowance. The proposed changes are indicated in red on the photocopy(ies) of Fig.(s) 1, 2, 3, 4, 5 or sheets _____ thereof attached below.

Very respectfully,

Applicant(s): JAN H. ZICHA, PE

c/o: _____

Tel.: 301 322 5233

Certificate of Mailing

I certify that this correspondence will be deposited with the United States Postal Service as first class mail with proper postage affixed in an envelope addressed to: "Commissioner for Patents, Washington, DC 20231" on the date below.

Date: 200 4, DECEMBER 28 Jan H. Zicha P.E., Applicant